

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

ALFRED T. GIULIANO, trustee;
GRAHAM - FIELD, INC., et al

Plaintiffs

Vs

E1 Enterprises, Inc., et. al.

Defendant

CIVIL NO. 98-1306 (DRD)
CIVIL ACTION

MOTION TO DISMISS COMPLAINT FOR TRUSTEE'S FAILURE TO POST

NON RESIDENT BOND

TO THE HONORABLE COURT:

COMES NOW defendant E1 ENTERPRISES, INC. ("E1"), represented by the undersigned attorney, and most respectfully INFORMS:

1. Plaintiffs' moved the Court to substitute Graham Field with the Chapter 7 trustee. [See: Docket No. 225.] Their request was granted by the Court. [See: Docket No. 243.]
2. At the February 19, 2004 status conference the Court ordered the trustee to post a \$1,000 non resident bond pursuant to Local Rule 304. [See Docket No. 242.] As of this date, almost three months thereafter, the trustee has not posted the bond as ordered by the Court.
3. Local Rule 304 states, in pertinent part, that after "a lapse of sixty (60) days from the service of the order requiring bond or additional bond, without bond having been posted, the Court may dismiss the action."

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4. The sixty days have elapsed without the trustee having post the required bond.

WHEREFORE, we respectfully pray from this Honorable Court to GRANT this motion and, accordingly, DISMISS the complaint for the trustee's failure to post the non resident bond.

I HEREBY CERTIFY that, on this same date, a true copy of this document has been sent via regular mail to Mr. Kenneth J. Mc Culloch, BRG&S, 909 Third Avenue, 18th Floor, New York, New York 10022.

RESPECTFULLY SUBMITTED.

In Hato Rey, Puerto Rico, April 28, 2004.

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